

REMARKS

In the application claims 11-20 remain pending. Claims 1-10 have been canceled without prejudice.

Pending claims 11-20 stand rejected under 35 U.S.C. § 102 as being anticipated by Shekhar (U.S. Published Application No. 2003/0033180). The reconsideration of the rejection of the claims is requested.

It is respectfully submitted that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently, in a single prior art reference. Since Shekhar fails to disclose each and every element set forth in claims 11-20, the rejection of the claims must be withdrawn.

The invention claimed is directed to a computer readable media having instructions for use in selecting a fulfillment plan for moving an item within a supply chain. In accordance with the claims, the instructions of the computer readable media perform the steps of, among others, receiving an order for an item; in response to receipt of the order for the item, constructing a plurality of alternative fulfillment plans for moving the item; evaluating each of the constructed plurality of alternative fulfillment plans against a predetermined criteria; and selecting for implementation one of the constructed plurality of alternative fulfillment plans that most closely meets the predetermined criteria. Shekar simply fails to disclose, teach, or suggest a computer readable media having instructions for performing these steps *as these steps are expressly recited in the claims*.

For example, Shekar fails to disclose a computer readable media having instructions which perform the step of constructing a plurality of alternative fulfillment plans in response to the receipt of an order for an item. Rather, in Shekar, a master plan 102, which is utilized to take such actions as sell (230), purchase (235), make (240), and store/move (245), is selected and

published for execution at a time prior to performing these operations. (Para. 0038 of Shekar). Thus, by its plain language, Shekar not only fails to disclose the claimed instruction performed step of constructing a plurality of alternative fulfillment plans in response to the receipt of an order for an item but, in fact, teaches directly away from this claimed element. Thus, for at least the reason that Shekar fails to disclose the claimed computer readable media having instructions which perform the step of “in response to receipt of the order, constructing a plurality of alternative fulfillment plans for moving the item from a sourcing point to one or more geographic locations within the supply chain,” considering each and every word set forth therein, it is respectfully submitted that the rejection under 35 U.S.C. § 102 must be withdrawn.

It is additionally submitted that, Shekar fails to disclose a computer readable media having instructions which perform the steps of evaluating and selecting for implementation one of a plurality of alternative fulfillment plans, which fulfillment plans, as claimed, have been previously constructed in response to the receipt of an order for an item. While Shekar discloses that a user may interact with a planning tool kit to generate alternate fulfillment plans which can then be evaluated by the user, certain facts cannot be ignored. First, Shekar describes that the user interacts with the master planning tool kit at a time prior to a plan being selected and published in the database for execution (as acknowledged in the Office Action at the bottom of Page 5) and, furthermore, it is only after a master plan is published for execution are actions such as sell (230), purchase (235), make (240), and store/move (245) performed. (Para. 0038 of Shekar). Thus, by its plain language, Shekar fails to disclose the claimed constructing a plurality of alternative fulfillment plans in response to the receipt of an order for an item and then evaluating and selecting one of the fulfillment plans [constructed in response to the receipt of the order for the item] to position the item within a supply chain. Yet further, in Shekar it is not instructions of a computer readable media which perform the steps of evaluating each of a

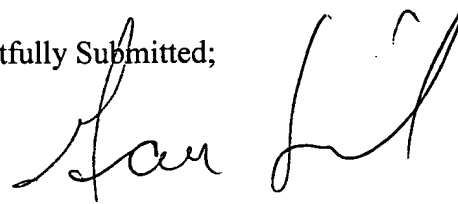
constructed plurality of alternative fulfillment plans against a predetermined criteria and selecting for implementation one of the constructed plurality of alternative fulfillment plans that most closely meets the predetermined criteria. Rather, (as has been again acknowledged in the Office Action at the bottom of Page 5), in Shekar **a user is responsible for manually** evaluating alternative plans created by the master planning tool kit (102) for their “goodness,” editing the plan; and then publishing the edited plan for execution. Thus, for at least the reason that Shekar fails to disclose the claimed computer readable media having instructions which perform the step of “evaluating each of the constructed [*in response to the receipt of an order for an item*] plurality of alternative fulfillment plans against a predetermined criteria” or which perform the step of “selecting for implementation one of the constructed [*in response to the receipt of an order for an item*] plurality of fulfillment plans that most closely meets the predetermined criteria,” considering each and every word set forth therein, it is respectfully submitted that the rejection under 35 U.S.C. § 102 must be withdrawn.

CONCLUSION

It is respectfully submitted that Shekar fails to anticipate or render obvious the invention claimed and, as such, the application is in good and proper form for allowance. Such action of the part of the Examiner is respectfully requested. Should it be determined, however, that a telephone conference would expedite the prosecution of the subject application, the Examiner is respectfully requested to contact the attorney undersigned.

The Commissioner is authorized to charge any fee deficiency or credit overpayment to deposit account 50-2428 in the name of Greenberg Traurig.

Respectfully Submitted;

A handwritten signature in black ink, appearing to read 'Gary R. Jarosik', written over the typed name.

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